

# **EXHIBIT 18**

## **CONFIDENTIAL**

In accordance with a protective order, the enclosure(s) shall be treated as confidential and shall not be shown to any person other than those persons designated in paragraph 8.2 of the paragraph order.

**Meadors Court Reporting**

**C O N F I D E N T I A L**

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF WYOMING**

**No. 1:22-cv-00125-SW**

---

**DEPOSITION OF CAITLIN LONG**

**November 29, 2023**

---

**CUSTODIA BANK, INC.,**

**Plaintiff,**

**vs.**

**FEDERAL RESERVE BOARD OF GOVERNORS and FEDERAL  
RESERVE BANK OF KANSAS CITY,**

**Defendants.**

---

**APPEARANCES:**

**WILLIAMS, PORTER, DAY & NEVILLE, P.C.**

**By Scott E. Ortiz, Esq.  
159 North Wolcott Street  
Suite 400  
Casper, WY 82601  
sortiz@wpdn.net**

**Appearing on behalf of Plaintiff.**

**KING & SPALDING LLP**

**By Andrew Michaelson, Esq.  
1185 Avenue of the Americas  
34th Floor  
New York, NY 10036  
amichaelson@klaw.com.**

**and**

**HIRST APPLEGATE, LLP**

**By Billie L.M. Addleman, Esq.  
1720 Carey Avenue  
4th Floor  
Cheyenne, WY 82003-1083**

**baddleman@hirstapplegate.com**

**Appearing on behalf of Defendant.**

*Meadors Court Reporting*

1           A       Which denial letter?

2           Q       The denial letter that you referenced  
3 earlier that you reviewed in preparation for today.

4           A       The master account denial letter did not  
5 detail risk management gaps. The master account  
6 denial letter was relatively short.

7           Q       When I refer to the -- the denial letter  
8 that you're referring to there, is it a letter from  
9 Esther George?

10          A       Yes.

11          Q       And there's -- do you recall whether it has  
12 an attachment -- both a letter and the attachment?

13          A       Yes, there was an attachment.

14          Q       And when you refer to "the letter," you're  
15 referring to the letter and the attachment?

16          A       Well, it depends on what you would like for  
17 me to refer to it as.

18          Q       In preparation for today, did you look at  
19 both --

20          A       Yes.

21          Q       -- the letter and the attachment?

22          A       Yes.

23          Q       So in the attached attachment articulated  
24 any of the risk management issues Ross Crouch  
25 identified to you following the membership exam?

*Meadors Court Reporting*

1           A     I don't recall. If there were -- if they  
2     were mentioned, they were not mentioned in detail.

3           Q     You also mentioned preparing for today by  
4     looking at Esther George's testimony?

5           A     Yes.

6           Q     Now, shifting to documents that you reviewed  
7     with counsel, without describing the substance of any  
8     documents, did you review documents with counsel --

9           A     Yes.

10          Q     -- in preparation for today?

11          A     Yes.

12          Q     Did review of any of those documents refresh  
13     your memory about events that happened around the  
14     time of those documents?

15          A     Yes, to some extent.

16          Q     How many documents would you say refreshed  
17     your memory?

18          A     Refresh my memory? A few.

19          Q     Which ones?

20          A     I don't recall.

21          Q     You don't recall which ones?

22          A     Not specifically.

23          Q     Do you recall if there were any from 2020 --

24          A     Yes.

25          Q     -- that refreshed your memory?

*Meadors Court Reporting*

1 A Um-hum.

2 Q Which ones do you recall from 2020?

3 A The e-mails about Tara Humston telling us  
4 there were no show stoppers with our master account  
5 application. That would have been actually 2021.

6 Q Any others come to mind, anything from  
7 2020?

8 A I know we reviewed e-mails from 2020, but I  
9 don't recall that any of them refreshed my memory.

10 Q Anything else from 2021 refresh your memory,  
11 any other document?

12 A Not from -- not that I can think of, no.

13 Q Okay. 2022?

14 A Yes. The conversations around  
15 Christi May-Oder telling us in March 2022 that our  
16 applications had not -- that the federal reserve had  
17 not begun to process either our master account or  
18 membership applications.

19 Q You recall that being a document from  
20 2022?

21 A Yes. That would have been March 2022.

22 Q Separate from the document, what do you  
23 remember about that event; what do you remember  
24 Christi May-Oder telling you?

25 A I was shocked.

*Meadors Court Reporting*

1 Q What did she tell you?

2 A She told us that she had not -- that the  
3 federal reserve had not begun to process Custodia's  
4 applications, including the master account  
5 application.

6 Q At that time, though, you knew, Rob Triano  
7 and others the Federal Reserve Bank of Kansas City  
8 had been performing a risk assessment of Custodia,  
9 right?

10 A Of course.

11 Q So you knew that work had been done on the  
12 master account before Christi May-Oder made that  
13 statement, to your recollection?

14 A Thus I was shocked by her statement.

15 Q Well, your recollection of that statement  
16 would be inconsistent with the fact you knew Kansas  
17 City had already been working on a risk management  
18 for Custodia, right?

19 A We received conflicting information at so  
20 many junctures in this process, and that is the  
21 reason why I requested a meeting with Esther George  
22 at that point. I didn't know what to believe at that  
23 point. It shocked me.

24 Q Do you recall -- in preparation for today  
25 with counsel, did you review any other documents from

*Meadors Court Reporting*

1 the 2022 time period that refreshed your memory?

2 A Yes.

3 Q What else?

4 A My letter to Esther George requesting that  
5 meeting and the proposal that we made to her in that  
6 meeting for finding a way to break through.

7 Q And what was that proposal?

8 A It proposed, for example, to have -- to  
9 forgo access to the discount window, to have what's  
10 called a zero net debit cap master account where we  
11 would not ever overdraw our master account.

12 It proposed information sharing where we  
13 would file monthly financial statements and the like.

14 Q Do you recall approximately when that  
15 meeting occurred?

16 A It was later in March 2022. It happened  
17 fairly soon. I think Esther -- well, I don't know,  
18 but when we told Esther George that Christi May-Oder  
19 told us she had not even been begun to process our  
20 applications, Esther immediately responded that she  
21 wanted -- to our requests for a meeting, that we  
22 should do it quickly. I think Esther probably  
23 understood she had a real problem on her hands at  
24 that point because we had been told so many different  
25 things, and that was a shocking statement.

*Meadors Court Reporting*

1 Q The statement from Christi May-Oder?

2 A Yes.

3 Q Given that you were aware -- at the time  
4 Christi May-Oder made that statement, given you were  
5 aware that FRBKC had already conducted a risk  
6 assessment of Custodia, what did you understand  
7 Christi's statement to mean?

8 A I had no idea.

9 Q So you didn't know what it meant?

10 A It shocked me.

11 Q Okay.

12 A Can I add one other thing? Rob Triano had  
13 left the Kansas City fed, and we had in the been  
14 given any feedback whatsoever from Rob Triano's risk  
15 assessment, and it was almost four months later by  
16 that point. We were just waiting.

17 Q So you knew a risk assessment had been done,  
18 but your testimony is you hadn't received feedback  
19 from it yet?

20 A Correct.

21 Q Were you -- at that time in March of 2022  
22 were Custodia's BSA/AML policies and procedures  
23 complete?

24 A We did have them yes.

25 Q They were complete?



*Meadors Court Reporting*

1           A       We had not had them reviewed by either  
2 consultants or the Wyoming Division of Banking, but  
3 we did have them.

4           Q       Were they, like -- I mean, were they ready  
5 to go; were they final?

6           A       We had a first draft.

7           Q       A first draft?

8           A       Um-hum.

9           Q       Any other -- going back to meetings with  
10 counsel, preparing for today, any other documents  
11 from 2022 refresh your memory?

12          A       Not that I can think of off the top of my  
13 head, no.

14          Q       Anything from 2023?

15          A       Yes.

16          Q       What from 2023?

17          A       The e-mail exchanges with  
18 Mark Van Der Weide, and also the e-mails from  
19 Bloomberg pertaining to the press leaks that were  
20 designed to pressure Custodia into withdrawing their  
21 applications.

22          Q       Okay. What were the e-mails with  
23 Mark Van Der Weide?

24          A       The e-mail that we sent declining to  
25 withdraw our application, but offered to resubmit if

*Meadors Court Reporting*

1 the fed would agree to review all of the documents  
2 that it had in its possession since June 30th, which  
3 it had not reviewed, and Mark's response that he  
4 received our letter and acknowledged that we had  
5 declined to withdraw, and then my response to him,  
6 which was that that was not actually what happened,  
7 we declined to withdraw, but offered to resubmit, and  
8 he never acknowledged that.

9 Q Okay. And then e-mails from Bloomberg. Who  
10 at Bloomberg were you corresponding with?

11 A Ally Versprille.

12 THE REPORTER: Can you spell that, please?

13 THE WITNESS: Yes. V-E-R-S-P-R-I-L-L-E, I  
14 believe. Ally -- Allison Versprille.

15 BY MR. MICHAELSON:

16 Q What is the leak that you're referring to?

17 A Ally started calling our press officer on  
18 Wednesday, January 25th, and left voicemails that she  
19 had been told that we had been asked -- Custodia had  
20 been asked to withdraw our applications at the fed,  
21 and that if we did not withdraw, that we were going  
22 to be voted down, and that the vote was going to  
23 happen on Friday, January 27th.

24 We did not -- I directed our press officer  
25 not to respond to those voicemails on Wednesday,

*Meadors Court Reporting*

1 January 25th, and that's when she started e-mailing  
2 our press at custodiabank.com e-mail on January 26th,  
3 and at that point, we knew that there was a serious  
4 press leak because the Wall Street Journal was also  
5 calling around with the same information looking to  
6 confirm.

7 Q Do you have any specific reason to believe  
8 that anyone from the Federal Reserve Bank of Kansas  
9 City leaked that information?

10 A I don't know who leaked that information  
11 except that it is obvious that someone from the  
12 federal reserve leaked at least three times during  
13 those three days.

14 Q You have no specific reason to believe that  
15 the leak was anyone at Federal Reserve Bank of Kansas  
16 City, correct?

17 A No.

18 Q Any other documents that you reviewed in  
19 preparation for today from January 2023 that refresh  
20 your memory?

21 A No.

22 Q You have a law degree, correct?

23 A I do.

24 Q What year did you receive it?

25 A 1994.

*Meadors Court Reporting*

1           Q       So from 1994 to the present, how many  
2 different financial institutions have you worked  
3 for?

4           A       Four.

5           Q       Can you name them?

6           A       Well, okay. I'll explain. I started at  
7 Saloman Brothers in 1994, then I moved to Credit  
8 Suisse in 1997, then to Morgan Stanley in 2007, and  
9 then worked outside of a financial institution for a  
10 few years, and then started Custodia in 2020.

11                   Within those financial institutions, I also  
12 worked for a regulated financial institutions  
13 underneath those bigger financial institutions.

14                   So at Credit Suisse, I was a director of  
15 Boston Re, which is a reinsurance company in Bermuda,  
16 and I formed Merton Re, a reinsurance company in  
17 Bermuda. I also worked -- well, I didn't work  
18 directly for Credit Suisse's insurance subsidiary in  
19 Zurich, but I worked on the restructuring of that  
20 insurance company. I was still working for Credit  
21 Suisse Group at the time.

22                   And then under Morgan Stanley, I was the  
23 president of Morgan Stanley's life insurance  
24 subsidiary longevity insurance company. I chose not  
25 to take the CEO title, but that was my function, and

*Meadors Court Reporting*

1 I signed all the financial statements and handled all  
2 the regulatory exams.

3 Q So were you at Credit Suisse from  
4 roughly '97 to 2007; is that right?

5 A Yes.

6 Q And at Credit Suisse, did you work for any  
7 depository institution?

8 A Yes.

9 Q What was the depository institution?

10 A The Credit Suisse USA Commercial Bank.

11 Q Did you say, "commercial bank"?

12 A Um-hum.

13 Q And what was your role with respect to  
14 Credit Suisse USA Commercial Bank?

15 A That wasn't its formal title, but it was a  
16 commercial bank. It was Credit Suisse USA. I don't  
17 even recall the formal name of the U.S. subsidiary.

18 With that particular role, I started a  
19 lending business lending against life insurance cash  
20 value.

21 Q At that time, were you aware as to whether  
22 Credit Suisse USA had a master account with the  
23 federal reserve bank?

24 A Yes, it did.

25 Q And do you know when it obtained that master

*Meadors Court Reporting*

1 account?

2 A No.

3 Q Was it prior to your role with that  
4 institution?

5 A I assume so, but I didn't interact with the  
6 master account at Credit Suisse.

7 Q Okay. And then you joined Morgan Stanley  
8 2007?

9 A Yes.

10 Q And when did you leave Morgan Stanley?

11 A 2016.

12 Q At Morgan Stanley, did you have any role  
13 with a depository institution?

14 A I interacted with Morgan Stanley's banks.  
15 The history there is Morgan Stanley was a securities  
16 firm until the financial crisis, and then it and  
17 Goldman Sachs and I believe a couple of others  
18 converted to bank holding companies as part of the  
19 solution to the financial crisis.

20 At that point, Morgan Stanley acquired a  
21 bank -- actually, two banks, and I was working with  
22 Morgan Stanley's corporate treasurer on something. I  
23 was not working with Morgan Stanley's banks.

24 Q Technically, who was your employer at Morgan  
25 Stanley?

*Meadors Court Reporting*

1           A       Morgan Stanley U.S., the U.S. subsidiary,  
2       which ultimately became one of the fed-regulated  
3       banks. So at that time, the distinction between  
4       securities firms and banks essentially went away.

5           Q       What was your primary job at Morgan Stanley?

6           A       I headed the pension solutions group in the  
7       initial years and then added additional function as  
8       head of corporate strategies.

9           Q       And what were your responsibilities as the  
10      head of pension solutions group?

11          A       I ran a group that helped corporate  
12      treasurers solve their pension-risk problems  
13      including settling pension liabilities.

14          Q       Essentially, providing advice to Morgan  
15      Stanley customers who were companies that had pension  
16      solution programs?

17          A       Correct. And through that role, that was  
18      head of Morgan Life Insurance subsidiaries, as well.

19          Q       And was that during the -- during what time  
20      period would you say you were heading up the pension  
21      solutions group at Morgan Stanley?

22          A       The entirety of my tenure at Morgan Stanley,  
23      2007 to 2016.

24          Q       And then you also mentioned you were head of  
25      corporate strategy?

*Meadors Court Reporting*

1           A       Um-hum.

2                   MR. ORTIZ: Is that a yes?

3           A       Yes, sorry. Corporate strategies group.  
4       That was a group that my boss asked me to start after  
5       the financial crisis. So it was probably 2009 and  
6       that continued until 2016 as well.

7       BY MR. MICHAELSON:

8           Q       What did that job entail?

9           A       It entailed working with corporate  
10      treasurers to understand the financial systems at a  
11      macro level. Corporate treasurers were my basic  
12      clients, and back in 2009, Morgan Stanley, of course,  
13      had balance-sheet issues, and so corporate treasurers  
14      were not transacting with Morgan Stanley until after  
15      the financial crisis calmed down, and my boss wanted  
16      to create a way for us to stay in front of our  
17      corporate treasury clients, and he knew that I had  
18      interesting experience and had taken a deep dive on  
19      what really went wrong in the financial system.

20           And so he asked me to go start meeting with  
21      corporate treasurers, and the feedback that he got on  
22      that was fantastic, and he said, "Keep going. It's  
23      really helping us keep in front of our clients," and  
24      once things calmed down in the financial crisis, he  
25      asked me to continue in that role.



*Meadors Court Reporting*

1 Q Any particular industry that you were  
2 serving, corporate treasurers and particular  
3 industries?

4 A No. It was across the board. Most of my  
5 pension transactions I started a brand-new market,  
6 and it started with a \$29 billion pension transaction  
7 between General Motors and Prudential. There was a  
8 follow-up transaction for Bristol Myers Squibb and a  
9 follow-up transaction for Motorola, so three  
10 completely unrelated companies. What linked them was  
11 pension liabilities, and then from there on, we did  
12 transactions for a lot of other companies, as well,  
13 and that market is continuing today.

14 Q And you left Morgan Stanley in around  
15 2016?

16 A Correct.

17 Q And you worked outside of the financial  
18 services sector; is that right?

19 A Correct.

20 Q With a company?

21 A Yes.

22 Q What company was that?

23 A Symbiont, S-Y-M-B-I-O-N-T.

24 Q And when did you leave Symbiont?

25 A 2018.

*Meadors Court Reporting*

1 helping, and so the index provider was looking for a  
2 way -- it was really Vanguard that drove this --  
3 looking for a way using blockchain technology using  
4 what's called, literally, "smart contracts," to  
5 automate that function for Vanguard and reduce the  
6 risk to the entity that those manual processes ended  
7 up with a mistake, and bad information went to their  
8 portfolio managers.

9 So that product I helped create, not the  
10 technology, but I was the business person responsible  
11 for the relationship with Vanguard at Symbiont, and  
12 it went into production. Vanguard still uses it to  
13 my knowledge today.

14 Q And is that blockchain and the smart  
15 contracts be public?

16 A They used a permissioned platform that  
17 Symbiont built. It was propriety.

18 Q So not public?

19 A Correct.

20 Q And when was -- I think we referred a couple  
21 times already today, Custodia, formerly called  
22 Avanti, correct?

23 A Yes.

24 Q If I refer to it as Custodia, will you know  
25 that I'm referring also to Avanti?

**Meadors Court Reporting**

1           A       Yes.

2           Q       When was Avanti formed?

3           A       2020.

4           Q       Who's idea was it?

5           A       Mine.

[REDACTED]

20           Q       How many members are there on the board  
21       now?

22           A       Five.

23           Q       How many were on the board at inception?

24           A       Five.

25           Q       And has the composition changed over the

**Meadors Court Reporting**

1     years?

2           A     Yes.

3           Q     Is it the same?

4           A     Yes. It has changed. Slow down.

5           Q     How many board members have left?

6           A     Two.

7           Q     Which ones left?

8           A     Bryan Bishop and his replacement  
9     Jeff Vanhart.

10          Q     So I take it you're familiar with Wyoming  
11     speedy statute?

12          A     Yes.

13          Q     How do you call it a speed statute; how do  
14     you refer to it?

15          A     Speedy banks.

16          Q     Speedy banks. Okay. Whose idea was that?

17          A     That was -- well, it depends on which part  
18     of the idea. The idea to create a bank was  
19     Tyler Lindholm, who was a legislator in the Wyoming  
20     legislature. The idea to create the particular  
21     structure of the bank was Albert Forkner, the Wyoming  
22     banking commissioner at the time.

23          Q     Did you have communications with  
24     Tyler Lindholm prior to the speedy statutes passage  
25     about speedy statute?

*Meadors Court Reporting*

1 Q Approximately when did that occur?

2 A 2019, I would guess.

3 Q And about when did he leave that role?

4 A When Senator Lummis was elected, and she  
5 recruited him to be her general counsel.

6 Q So then he joined Senator Lummis's staff?

7 A Was that 2020? I think it was 2020,  
8 whenever Senator Lummis was elected. It might have  
9 been 2022. Yeah, it was 2022, yeah.

10 Q Do you have though -- I mean, sitting here  
11 today, do you have any recollection of Forkner  
12 telling you that there was an agreement with the  
13 Federal Reserve Bank of Kansas City pursuant to which  
14 any charter speedy is getting a master account?

15 A I don't recall specifically talking about  
16 the agreement because, again, everyone assumed that  
17 this was a done deal. What I do recall is  
18 Commissioner Forkner at multiple stages guiding us  
19 that he expected we would get our master account very  
20 soon.

21 Q But you don't have any recollection of him  
22 referring to an agreement with the Kansas  
23 City Fed on that, correct?

24 A Not specifically, no.

25 Q And in that first meeting with

*Meadors Court Reporting*

1 Esther George, that occurred, you said, November  
2 2020?

3 A Correct.

4 Q Via Zoom?

5 A Correct.

6 Q How many -- do you recall that meeting?

7 A Yes.

8 Q How many people participated from the  
9 Custodia side?

10 A It would have been the whole executive team,  
11 so probably five, and then our counsel at Cleary, a  
12 couple of those folks were on. I don't recall.  
13 Katie Cox may have joined us, as well. She was an  
14 advisor.

15 Q Who do you recall participating in the  
16 Kansas City side?

17 A Probably 15 people, Esther George,  
18 Tara Humston.

19 Q Was there anyone from the Board of Governors  
20 in that call?

21 A No.

22 Q What do you recall sitting here today  
23 Esther George communicating to you on that call?

24 A That the process would be fair and  
25 transparent.

*Meadors Court Reporting*

1 Q Anything else?

2 A She was very noncommittal.

3 Q So coming away from that meeting, did you  
4 have an understanding that a master account was not a  
5 slam dunk?

6 A I understood what the law was. I understood  
7 she was suddenly taking a different position, and it  
8 was surprising to the Wyoming Division of Banking  
9 when I conveyed it to them.

10 Q On that call with Esther George, did you say  
11 that the Federal Reserve Bank of Kansas City had  
12 agreed with the Wyoming legislature that you would  
13 get a master account?

14 A I don't recall.

15 Q Are you familiar with the concept of a  
16 traditional bank?

17 A Yes.

18 Q Fair to say a traditional bank is involved  
19 in taking deposits?

20 A Yes.

21 Q And also lending?

22 A It depends.

23 Q Well, that's a question. Does the  
24 traditional business of banking involve lending?

25 A No, not legally in Wyoming.

*Meadors Court Reporting*

1           Q     So you're saying -- you're saying that the  
2     traditional business of banking can include banks  
3     that don't engage in lending?

4           A     Yes.

5           Q     In Wyoming?

6           A     The most important distinction of a bank is  
7     a depository institution. It is a corporation  
8     bestowed with the right to accept deposits. The  
9     definition of "bank" in different statutes is very  
10    different.

11          Q     That's why I'm trying to level set on here  
12    what we're talking about if we're talking about  
13    traditional banking. I'm not referring to a specific  
14    statute?

15                So it sounds like in your head, the  
16    traditional business of banking need not include  
17    lending; is that correct?

18          A     A depository institution takes deposits. It  
19    says nothing about lending. You don't have to be a  
20    bank to lend. Some banks lend, some banks don't.

21          Q     So in your view, the traditional view of  
22    banking doesn't necessarily include lending?

23          A     The different statutes are so different, it  
24    really honestly is very difficult to draw a broad  
25    brush conclusion because the definition of "bank" in



*Meadors Court Reporting*

1           A       There were others. I don't recall their  
2 names off the top of my head, though.

3           Q       Is it your understanding that Miss Clark was  
4 sort of leading the analysis --

5           A       Yes.

6           Q       -- on the FDIC side?

7           A       Yes.

8           Q       And is that who you submitted the draft  
9 application to?

10          A       Yes.

11          Q       Did there come a time when the FDIC provided  
12 feedback on that draft application?

13          A       Yes.

14          Q       How did they provide that feedback to you;  
15 was it orally or written?

16          A       Both.

17          Q       Let's start with the oral. Was that  
18 provided via Zoom?

19          A       Yes.

20          Q       Was it provided by Clarisa Clark?

21          A       Yes.

22          Q       And what did she say?

23          A       She said, This is a novel activity. It's a  
24 novel charter, and that the FDIC was not prepared to  
25 provide insurance for digital asset-focused banks

*Meadors Court Reporting*

1 that were starting de novo.

2 Q So your take away then was the FDIC would  
3 say, "no," if you formally submitted the application?

4 A Correct.

5 Q How long was that call with Miss Clark?

6 A 30 minutes.

7 Q Did you argue on that call for a different  
8 conclusion?

9 A No.

10 Q And then you said feedback was also  
11 submitted or provided to you in writing?

12 A Correct.

13 Q Was that provided to you before or after the  
14 call with Miss Clark?

15 A I don't remember. I don't know.

16 Q And what format did that writing take,  
17 e-mails, was it a memo?

18 A A letter.

19 Q Letter? E-mailed to you or sent via snail  
20 mail?

21 A E-mail.

22 Q How long was the letter?

23 A Two or three pages.

24 Q And it was from the FDIC?

25 A Correct.

*Meadors Court Reporting*

1           Q     You remember who the signatory was of  
2 Miss Clark?

3           A     It was probably her. I don't know for  
4 sure.

5           Q     What do you recall the letter saying?

6           A     What I just laid out to you.

7           Q     So essentially, your recollection is that  
8 letter conveyed the answer would be no if you filed  
9 this?

10          A     Not directly, but yes. It was clear that we  
11 should not file an application. If we did, it would  
12 not be approved.

13          Q     And after receipt of that letter, do you  
14 remember approximately when you received this  
15 feedback from the FDIC?

16          A     They did not meet their 60-day feedback  
17 timeline because, as she explained, they had to go  
18 through Washington D.C., and it took longer for them  
19 to get the feedback from Washington, D.C.

20          Q     Do you recall when you got the feedback?

21          A     It was closer to 120 days later, but I don't  
22 recall the specific timing of when we filed the  
23 application and when we got the feedback.

24          Q     Do you recall, generally, if you got the  
25 feedback in 2021?

*Meadors Court Reporting*

1     stablecoin insurance?

2           A     Well, first of all --

3                   MR. ORTIZ: Hold on a second. Let me object  
4     to the form of the question. Go ahead. You can  
5     answer.

6           A     First of all, the president's working group  
7     made only a recommendation. It was not law. It was  
8     not rule. It was not even guidance. It was a  
9     recommendation, but I should note that when we  
10    resubmitted our business plan to the fed after the  
11    denial, we asked the fed for help getting FDIC  
12    insurance. If this is what it was going to take, and  
13    the fed was in a position to get us FDIC insurance,  
14    we would have been fine with that.

15                   So we did not abandon that plan of FDIC  
16    insurance. We just didn't go back to the FDIC  
17    because Marty Gruenberg was in charge, and the board  
18    of the FDIC has to approve every applicant, and we  
19    knew we weren't going to be approved. That was  
20    crystal clear.

21    BY MR. MICHAELSON:

22           Q     Okay. Is the communication with the fed  
23    that you just described there in which you sought the  
24    fed's help getting FDIC insurance, that didn't occur  
25    until February 2023 after the master account request

*Meadors Court Reporting*

1 and membership had been denied, correct?

2 A Correct.

3 Q So following receipt of the feedback from  
4 FDIC, fair to say that Custodia's business plan  
5 included issuance of digital asset that -- in a  
6 manner that would have been inconsistent with the  
7 president's working group guidance and recommendation  
8 on stablecoin insurance?

9 MR. ORTIZ: Let me object to the form of the  
10 question. Go ahead. You can answer it.

11 A Okay. Yes. That's why we haven't issued  
12 it.

13 MR. ORTIZ: Can we take a break?  
14 (Break from 10:10 a.m. to 10:29.)

15 BY MR. MICHAELSON:

16 Q So we're back on the record. Referring to  
17 Exhibit 238, the business plan, Page 8, they're  
18 talking about the first of the four business lines,  
19 which is core banking?

20 A Yes.

21 Q So what this says, "customer deposits a  
22 fiat," right?

23 A Yes.

24 Q And it would be uninsured given FDIC's  
25 response to, correct?

*Meadors Court Reporting*

1 A Correct.

2 Q The customer deposits would remain a hundred  
3 percent backed; is that right?

4 A In a master account, yes.

5 Q If you had a master account, they'd go into  
6 the master account?

7 A Correct.

8 Q And what would happen to the interest that  
9 you -- Custodia would earn on the master account  
10 deposits?

11 A Well, at this time, interest was zero, so it  
12 didn't matter.

13 Q But if interest rates were higher, then what  
14 happens?

15 A What we said in the business plan was that  
16 we didn't intend to pay interest on deposits, but we  
17 recognized in high-interest scenarios, that that  
18 might be expected. So we would reserve the right to  
19 respond to the market if we had to, but it was not  
20 our plan to pay interest on deposits.

21 Q So that was the business plan at the time?

22 A Correct.

23 Q And then as we moved -- this was 2021. As  
24 we moved into a higher-interest-rate environment,  
25 what was the plan of the higher interest-rate

*Meadors Court Reporting*

1 Uniform Commercial Code was amended, nobody owns  
2 securities outright anymore unless you own the paper  
3 stock certificate.

4 What you own is a security entitlement under  
5 UCC, Article 8, which is, to your question, a pro  
6 rata share of the omnibus account. What some  
7 securities custodians attempt to do is to create a  
8 bailment on top of that, but obviously, you're an  
9 attorney. You understand a bailment on an IOU  
10 doesn't really exist in the law.

11 A bailment on property, of course, exists in  
12 the law. That's common law that predates the United  
13 States. So bailment is not unique to Wyoming.  
14 Bailment is a common law concept.

15 We were trying to improve on the UCC,  
16 Article 8 structure, which failed during the 2008  
17 financial crisis, and create a counterparty credit  
18 risk for securities holders to their custodians, and  
19 what Wyoming wanted to do was clarify that a  
20 bailment, because a digital asset is natively  
21 digital, it's not an IOU like a securities  
22 entitlement under UCC, Article 8. Wyoming wanted to  
23 clarify that a bailment could actually be applied to  
24 a digital asset.

25 BY MR. MICHAELSON:

*Meadors Court Reporting*

1 Q So the Wyoming statute enabled Custodia to  
2 offer this pooled account fungible bailment for  
3 custody of digital assets?

4 A Correct.

5 Q Which would have been held together in a  
6 pool?

7 A Correct.

8 Q Would it have been held in one wallet or  
9 multiple wallets?

10 A We -- this is not what we actually did.  
11 What we ended up rolling out was No. 4, segregated  
12 on-chain account. That's what we're operating with  
13 right now.

14 We talked about the different alternatives  
15 back then, but we had not built the technology  
16 platform, and we ended up rolling out segregated  
17 on-chain account. So to answer your question, every  
18 customer has a different wallet, and every digital  
19 asset is segregated from every other customer's  
20 digital assets, and of course, segregated from  
21 Custodia because we're not permitted to own digital  
22 assets on balance sheet.

23 Q So what's rolled out now is not the pooled  
24 account fungible bailment?

25 A Correct.



*Meadors Court Reporting*

1           Q     What was rolled out now, what's reflected in  
2     this business plan as No. 4, segregated on-chain  
3     account, which are segregated -- essentially  
4     segregated deposits on the customer's digital  
5     assets?

6           A     I have to correct the word, "deposit."  
7     "Deposit" has a very specific meaning in banking, but  
8     yes, this is -- is an asset held in custody.

9           Q     Segregated, not pooled?

10          A     Correct.

11          Q     But at the time of this business plan, you  
12     envisioned the core custody service to be provided  
13     would be via the pooled account fungible bailment,  
14     correct?

15          A     We listed all five of these because we will  
16     eventually provide all five most likely, but at the  
17     time, we didn't know which one we were starting with.

18          Q     Here on Page 10, No. 1, the pooled account,  
19     it says, "This product will be Avanti's core product  
20     offering for custody of digital assets"; do you see  
21     that?

22          A     I do.

23          Q     Was that accurate at the time?

24          A     That was our intention at the time.

25          Q     So your intention at the time is that this

*Meadors Court Reporting*

1 pooled account fungible bailment would be the core  
2 custody product offering, right?

3 A Yes, and the history of that is that was  
4 easier to build than the segregated on-chain account.

5 Q But it wasn't build out at that time?

6 A It was not, correct. We actually went a lot  
7 further, and did the hardest thing first, which is  
8 the segregated account.

9 Q But at this time, what you are representing  
10 would be the core product offering for custody wasn't  
11 built out?

12 A Correct.

13 Q So at this time, 2021, did you know whether  
14 the pooled account be held in one wallet or multiple  
15 wallets, or that wasn't thought through yet?

16 A Every customer would have had a different  
17 wallet. So there would have been -- are you familiar  
18 with the concept HD wallets,  
19 hierarchial-deterministic wallets. Multiple wallets  
20 hang off a hierarchial-deterministic wallet, a single  
21 wallet, so that's -- every customer would have had  
22 their own wallet.

23 Q In the custody?

24 A Yes, but the --

25 Q But the assets are held in a wallet?

*Meadors Court Reporting*

1           A       In an HD structure, yes.

2           Q       But all the assets are going to be together,  
3 correct; the digital assets are going to be  
4 together?

5           A       Yes, in that No. 1 as we originally  
6 envisioned it, yeah.

7           Q       And it would be a single wallet?

8           A       No.

9           Q       Not a single HD wallet?

10          A       There would have been probably a single HD  
11 wallet. You can have an infinite number of wallets  
12 off a single HD wallet for each customer.  
13 "Infinite's" probably not the right word, actually.  
14 You can have a large number of wallets.

15          Q       But the wallets -- would you refer to those  
16 wallets as, like, subwallets?

17          A       No, just wallets.

18          Q       Just wallets?

19          A       Um-hum.

20          Q       And the wallets would indicate how much each  
21 customer was holding of a digital asset?

22          A       Yes.

23          Q       But that's not -- it's still not a  
24 segregated account, right; it's still -- the digital  
25 assets with pulled together in the HD wallet?

*Meadors Court Reporting*

1           A       Yes. In that structure, yes.

2           Q       All right. And that would be uninsured,  
3 correct?

4           A       All digital assets under custody are  
5 uninsured just like securities held in custody are  
6 uninsured.

7           Q       So you'd have to build -- Custodia would  
8 have to build systems to ensure that the HD wallet  
9 wasn't hacked, right?

10          A       Yes.

11          Q       And build systems to ensure a rogue employee  
12 didn't transfer digital assets out?

13          A       Yes.

14          Q       But that wasn't done yet, correct?

15          A       Correct.

16          Q       And there are a few sub bullets here. No.  
17 1, "Send digital assets from a pooled account to a  
18 destination address"?

19          A       Um-hum.

20          Q       Do I understand that to mean a customer  
21 would direct Custodia to send some of their digital  
22 assets out of the pooled account to a third party?

23          A       Yes.

24          Q       And then the second sub bullet here is,  
25 "received digital assets." Do I understand that to

*Meadors Court Reporting*

1 mean a customer would send to Custodia a digital  
2 asset --

3 A Correct.

4 Q -- from some wallet outside of the  
5 Custodia's asset control?

6 A Yes.

7 Q And then internal transfers, it says, "Send  
8 payments or transfers between Avanti customers  
9 through the online banking portal." What does that  
10 refer to?

11 A That means if two customers that had digital  
12 assets in the pooled account wanted to transact with  
13 each other, they could do so without sending the  
14 assets outside of Custodia.

15 Q So if Customer A wanted to send Customer B  
16 bitcoin in exchange for fiat, Custodia would  
17 facilitate that?

18 A No. This is bitcoin to bitcoin or Ethereum  
19 to Ethereum.

20 Q So if Customer A wanted to send bitcoin to  
21 Customer B, Custodia would facilitate that within  
22 this pooled account?

23 A Yes.

24 Q What is Customer B providing back to  
25 Customer A in exchange for bitcoin?

*Meadors Court Reporting*

1           A       Dollars from their Custodia account.

2           Q       So bitcoin would travel from A to B in the  
3       pooled account, and fiat would travel from B to A in  
4       the core banking account?

5           A       In that example using an internal transfer,  
6       yes.

7           Q       And how would -- would -- so Custodia's  
8       business plan at the time, would Custodia play a role  
9       in matching A and B, like if A wanted to sell  
10      bitcoin, and B wanted to buy, would Custodia play a  
11      role?

12          A       To create a platform for transacting like  
13      that, yes, but not to act as an exchange. That was a  
14      very critical distinction. None of these would ever  
15      have touched Custodia's balance sheet. We were not  
16      acting as principal.

17          Q       But you would have provided a service of  
18      matching a buyer with a seller?

19          A       Through prime services, yes.

20          Q       Through prime services?

21          A       That's what we called prime services. It's  
22      really settlement services, yes.

23          Q       And as of the time of this document, so  
24      August 2021, had that matching service been planned  
25      out yet?

*Meadors Court Reporting*

1 A No.

2 Q And taking this forward to the fall of 2022,  
3 the time of the membership exam that we discussed  
4 earlier, had that been built out?

5 A No.

6 Q And had the pooled -- had the pooled account  
7 generally been built out at that time?

8 A No.

9 Q There's a reference here to physical  
10 storage; is that storage of hardware?

11 A Yes.

12 Q And we discussed already No. 3, the omnibus  
13 account. The No. 4, segregated on-chain account, was  
14 non-fungible bailment?

15 A Yes.

16 Q And what is that?

17 A That's what we're offering today.

18 Q That's what you're offering today. Okay.  
19 As part of the custody services that you planned to  
20 provide as part of this business plan, I'm correct  
21 that Custodia's plan was to have crypto on balance  
22 sheet, correct?

23 A No.

24 Q Custodia would have -- it's your testimony  
25 that Custodia's plan was to have zero crypto on

*Meadors Court Reporting*

1 balance sheet as part of its custody service?

2 A Our proposal to the fed, which was not  
3 mentioned in this business plan, was to hold up to  
4 \$10,000 on balance sheet to facilitate customer fees,  
5 but we abandoned that.

6 Q To facilitate customer fees in connection  
7 with the custody service or a different service?

8 A To facilitate, yes. Every time you transact  
9 on blockchain, fees have to be paid in the token. So  
10 in our case for custody, either bitcoin or Ethereum.  
11 The question was, who pays the fee. We asked the fed  
12 for permission to hold up to \$10,000 on our balance  
13 sheet because we will always charge the fee through  
14 to the customer.

15 The challenge becomes, you estimate a fee,  
16 but you don't know exactly what the fee is going to  
17 be when the transaction is confirmed on the  
18 blockchain, and so there will be differences that  
19 will be very small, but we did not want to have to go  
20 back to a customer to ask for additional bitcoin to  
21 pay for the fee because these are small differences.

22 And so we asked for permission from the fed  
23 to hold a de minimis amount, and every time the fed  
24 has talked about us holding digital assets on balance  
25 sheets, it has made that material omission that our



*Meadors Court Reporting*

1 for additional information, operationally, it is far  
2 less risky if we have the ability to hold the de  
3 minimis digital assets on balance sheet.

4 So when we were thinking about it from a  
5 risk perspective, it made so much more sense, and I  
6 could see that the team, including the Board of  
7 Governors, including Asad Padilla agreed with that  
8 assessment when we talked about it on our biweekly  
9 calls. This subject came up on our biweekly calls  
10 repeatedly because we had requested permission and  
11 were waiting for the answer.

12 Q At that time of that membership exam, was it  
13 the position of the Wyoming Division of Banking that  
14 you had to have the digital assets on balance  
15 sheet?

16 A I don't recall the precise timing relative  
17 to the exam because this whole issue wasn't an exam  
18 issue. This was a request for additional information  
19 issue. That's where it played out.

20 Q You referenced at some point Wyoming  
21 changing its position on this. So there  
22 was -- strike it. There was a point in time where  
23 Wyoming was requiring Custodia to hold digital assets  
24 on balance sheet to facilitate receipt of fees in  
25 connection with a custody service, correct?

*Meadors Court Reporting*

1           A       To hold a de minimis amount, correct, and  
2       this was before we had launched. So this was one of  
3       those details that was getting worked out prior to  
4       getting approval to launch. At no time did we ever  
5       hold digital assets on balance sheet, and we still  
6       have not.

7           Q       And then there came a time where Wyoming  
8       changed its position?

9           A       Correct.

10          Q       First time it would no longer require  
11       Custodia to hold any digital assets on balance sheet?

12          A       Correct.

13          Q       When did that change of position occur?

14          A       In the fall of 2022.

15          Q       In the fall of 2022?

16          A       Yes.

17          Q       And how was that conveyed to you --  
18       Wyoming's change of position?

19          A       We had biweekly meetings with the Wyoming  
20       Division of Banking.

21          Q       Was that conveyed to you orally?

22          A       Yes.

23          Q       Was it conveyed in writing?

24          A       I don't recall.

25          Q       Do you recall whether Custodia conveyed to

*Meadors Court Reporting*

1 the board or the Federal Reserve Bank of Kansas City  
2 that Wyoming's position on that had changed?

3 A Yes.

4 Q How was that conveyed?

5 A In our biweekly calls.

6 Q As of -- so as of the time of the membership  
7 exam, did Custodia's plan involve holding a small  
8 amount of digital assets on balance sheet?

9 A As of August 2022, yes, the membership exam  
10 didn't cover this.

11 Q Would it have been the Federal Reserve  
12 Bank's of Kansas City's understanding at the end of  
13 2022 that Custodia's plan was to hold small amount of  
14 digital assets on balance sheet?

15 A We had requested permission. It was never  
16 part of our business plan. We had requested  
17 permission, but it was not part of our business plan.  
18 That was materially misleading.

19 Q What was materially misleading?

20 A The 86-page order making it sound like  
21 Custodia was proposing to trade digital assets on its  
22 balance sheet as principle.

23 Q As a matter of authority, am I correct, that  
24 Custodia had authority to hold up to 0.5 percent of  
25 custody in digital assets on balance sheet?

*Meadors Court Reporting*

1 MR. ORTIZ: Let me object to the form of the  
2 question. It's vague and confusing as phrased. Go  
3 ahead. You can answer.

4 A The Wyoming laws are silent on -- and  
5 regulations are silent on this. This was a detail  
6 that had to be worked out between our regulators --  
7 well, at the time, only the Wyoming Division of  
8 Banking, but we were requesting permission from the  
9 fed.

10 BY MR. MICHAELSON:

11 Q Okay. So let's -- did custody  
12 offer -- custody service require -- let me rephrase  
13 that. What custody service could Custodia provide  
14 without any prime services?

15 MR. ORTIZ: Without any what?

16 BY MR. MICHAELSON:

17 Q Prime services.

18 A It could provide the same primary services;  
19 transfers in and transfers out.

20 Q But wouldn't it only be able to receive from  
21 customers digital assets?

22 A Correct, yes. That's what I mean. I want  
23 to amend my previous answer. It's the same custody  
24 services. Custody is a passive function.

25 Q But without the prime services, the only way

***Meadors Court Reporting***



***Meadors Court Reporting***



*Meadors Court Reporting*

1     imagine large businesses, multinational businesses,  
2     such as Ford and the other corporate treasurers that  
3     I worked with at Morgan Stanley, this was exactly  
4     what they wanted, the ability to have U.S. dollars  
5     for transaction purposes that didn't have to go  
6     through the Swift system and get caught up in the  
7     Swift black hole, which was the term that corporate  
8     treasurers used for the problems they were having  
9     transferring dollars overseas.

10       Q     So -- look, I hear you referring as  
11     testimony to use by -- use of the Avit by  
12     sophisticated professional companies in the United  
13     States, but you'd agree that stablecoins are  
14     attractive to criminals around the world, correct?

15             MR. ORTIZ: Let me object to the question.  
16     It's overly broad. Go ahead.

17       A     I would not agree that stablecoins are,  
18     attractive and there's a simple reason why. They're  
19     traceable.

20     BY MR. MICHAELSON:

21       Q     I guess really the question is, when you're  
22     working on this business plan for Avanti in 2021, do  
23     you recognize that there's a risk that the Avit would  
24     be used for money laundering?

25       A     Yes. I recognize that any financial

*Meadors Court Reporting*

1 instrument could be used in money laundering. I do  
2 not agree that this had a higher risk of use in money  
3 laundering than other forms, such as physical U.S.  
4 dollars or such as other stablecoins.

5 What we presented to the fed was the ability  
6 to bring this into the regulatory perimeter where  
7 transactions could be watched to ensure that they  
8 were not being used by terrorists or money  
9 launderers.

10 Q And look, transactions and digital assets  
11 can be watched, right?

12 A Correct.

13 Q Not just stablecoins, but transactions and  
14 digital assets can be watched, right?

15 A Correct.

16 Q People can look on the blockchain and see  
17 what's happening in Manaro and all kinds of different  
18 digital assets?

19 A Not Manaro as easily, but bitcoin and  
20 eretheum, the two that Custodia proposed to transact  
21 in and to issue Avits on, yes, very easily.

22 Q And even still, you would agree that bad  
23 actors out there in the world have come to use  
24 digital assets for money laundering, correct?

25 MR. ORTIZ: Let me object. It's overly



*Meadors Court Reporting*

1 broad. Go ahead.

2 A I can't -- I have no direct knowledge of  
3 that. There is so much misinformation out there, and  
4 I would encourage anyone who has this view to look at  
5 how the FBI brought down the silk road and really  
6 understand how they did that.

7 There's a reason why law enforcement prefers  
8 criminals to use this technology because they can  
9 find who is behind it if they look closely enough,  
10 and that is exactly why, as a policy matter, the U.S.  
11 should bring this into the regulatory perimeter  
12 where, very importantly -- you may not understand  
13 this as a non-bank person -- the amount of Bank  
14 Secrecy Act compliance that banks are required to do  
15 is far higher than the amount of Bank Secrecy Act  
16 compliance that non-banks do, and as a result,  
17 bringing this into the regulatory perimeter would  
18 reduce the possibility that it ended up in the hands  
19 of illicit actors.

20 It is also worth noting, Custodia proposed  
21 voluntarily to file suspicious activity reports on  
22 anyone who used Avit, and we would do that monitoring  
23 ourselves.

24

25 BY MR. MICHAELSON:

*Meadors Court Reporting*

1           Q     You keep saying, "bring it into the  
2     regulatory perimeter," but secondary market  
3     transaction in the Avit would not be in the  
4     regulatory perimeter, correct?

5           A     Not necessarily. It may very well be within  
6     the regulatory perimeter.

7           Q     But if a customer sells an Avit to a third  
8     party -- sells an Avit to another third party, and  
9     that Avit could proceed to trade in the secondary  
10    market, correct?

11          A     If it goes peer to peer, but --

12          Q     So yes, it could continue to trade in the  
13    secondary market, right?

14          A     In small amounts, yes.

15          Q     And it may be visible on a blockchain that a  
16    transaction's happening, but neither Custodia nor  
17    regulators would know who controls the wallets that  
18    were involved in the secondary transactions  
19    correct?

20          A     Not necessarily. Again, this is why the  
21    blockchain surveillance firms are so important to law  
22    enforcement because --

23          Q     Is it your testimony, though --

24                MR. ORTIZ: Hold on. Make sure she's  
25    finished, Counsel. You guys are both going fast.

*Meadors Court Reporting*

1 Were you done?

2 A No, I'm not done. There was an entire  
3 industry that exists to unmask who owns which digital  
4 asset wallets, and the amount of work that they do to  
5 determine who owns which wallets is incredible.

6 I will point to the Twitter hack as an  
7 interesting example. When Jack Dorsey's account was  
8 hacked a couple of years ago, within minutes the  
9 blockchain surveillance people knew who the hacker  
10 was because they could trace the wallet.

11 Q Okay. And Custodia's working with  
12 Chainalysis as one type of firm that performs that  
13 kind of work, correct?

14 A Correct. Exactly.

15 Q Your testimony that Chainalysis is able to  
16 figure out who's behind every wallet in the  
17 blockchain; is that your testimony?

18 MR. ORTIZ: Let me object; lacks foundation.  
19 Go ahead.

20 A Given enough time and enough transactions,  
21 yes.

22 BY MR. MICHAELSON:

23 Q So at the end of the day, your business plan  
24 involves -- Custodia's business plan involves issuing  
25 a digital asset called the Avit, right, and this

*Meadors Court Reporting*

1 digital asset could trade on a secondary market,  
2 correct?

3 A Correct.

4 Q And it would replace some of the demand for  
5 stablecoins, correct?

6 A For the regulated stablecoins, most likely  
7 yes.

8 Q And it's your testimony that this asset  
9 presents no greater risk for use in money laundering  
10 than a standard U.S. dollar?

11 A Than a physical U.S. dollar? It presents  
12 less risk than a physical U.S. dollar because a  
13 physical U.S. dollar cannot be traced. As soon as  
14 you take it out of the ATM, there's no watching those  
15 transactions; whereas, every blockchain transaction  
16 can be traced, and the record is there forever.

17 Q But physically, U.S. dollars present other  
18 issues, like you have to move them around in  
19 suitcases, right? Okay. So your testimony --

20 MR. ORTIZ: Did you respond? I didn't hear  
21 a response.

22 A Can you repeat the question?

23 BY MR. MICHAELSON:

24 Q It's your testimony that -- well, I'll  
25 strike that and move on. So let's talk about prime

*Meadors Court Reporting*

1 services then, last one.

2 So as far as prime services, will consist of  
3 a number of value added services including digital  
4 asset to fiat exchange?

5 A Yes.

6 Q And vice versa; do you see that?

7 A Yes.

8 Q And referring to Point Number One at the  
9 bottom of Page 11, "the fiat on off ramp"; you see  
10 that?

11 A Yes.

12 Q Conversion between fiat and digital assets,  
13 and the first sub bullet is "Buy Digital Assets:  
14 Purchase digital assets with fiat held in a deposit  
15 account." So do I understand that to mean that a  
16 Custodia customer who has deposited fiat in a core  
17 banking account could then indicate to Custodia that  
18 it wants to use some of that fiat to buy digital  
19 asset?

20 A Yes.

21 Q And Custodia would facilitate that purchase  
22 of a digital asset with the fiat held in the deposit  
23 account?

24 A The key word is "facilitate."

25 Q So tell me how -- under this business plan,

*Meadors Court Reporting*

1 tell me how that would work.

2 A Here's how custody works. Custody is a  
3 passive function, a passive service. Prime services  
4 is matching buyers and sellers, but it's not prime  
5 brokerage. That's an incredibly important  
6 difference.

7 Prime brokers will transact on balance  
8 sheets. Custodia would never transact on balance  
9 sheet. So what that means is, just like in the  
10 securities industry, if you have securities in your  
11 401(k) at Bank of New York Mellon, and you direct  
12 them to sell the securities and liquidate for cash,  
13 what Bank of New York Mellon is going to do is go to  
14 an exchange and liquidate those securities.

15 So go to the NASDAQ or go to the New York  
16 Stock Exchange. Bank of New York Mellon is not going  
17 to act as principal liquidate anything. The dollars  
18 then come back from the exchange to Bank of New York  
19 Mellon, and then they put them in your 401(k).

20 So the important distinction is there's a  
21 difference between the custodian and the exchange.  
22 And that is exactly the model that Custodia proposed.  
23 We would not be an exchange.

24 Q So walk me through how the transaction would  
25 happen. You would go to an exchange?

*Meadors Court Reporting*

1           A       Yes.

2           Q       Have you had conversations with exchanges at  
3       this time, August of 2021?

4           A       At this time? We had introductory  
5       conversations about who would want to be integrated  
6       to our platform to provide bids and offers to our  
7       customers, but we had not taken any further steps  
8       than that.

9           Q       What exchanges had you spoken with as of  
10      August 2021?

11          A       We had Coinbase as a shareholder already.  
12      We had talked to some of the over the counter -- OTC  
13      liquidity providers like Cumberland, Jump Trading.  
14      Those are the names that come to mind.

15          Q       But you didn't have any agreements in place  
16      with any of these entities?

17          A       No.

18          Q       How about moving forward to the year of the  
19      time of the yearly membership exam, did you have any  
20      agreements in place with any exchanges or liquidity  
21      providers?

22          A       No.

23          Q       At the time of the membership exam, was  
24      there a leading candidate for who would serve as a  
25      liquidity provider for this service?

*Meadors Court Reporting*

1           A       No.

2           Q       So it was yet to be determined?

3           A       Correct.

4           Q       Okay. Assuming it was an exchange like a  
5   Coinbase, can you explain how that would work; was it  
6   Custodia would have an account with Coinbase?

7           A       Well, again, we hadn't figured out the  
8   details. You can have customers have accounts or you  
9   can have an omnibus account that for the benefit of  
10  customers. I would assume we would have had the  
11  latter, but we hadn't worked out the details yet on  
12  that.

13          Q       So how would -- ultimately, dollars would  
14  have to be -- if there's a purchase of bitcoin on,  
15  say, Coinbase, dollars would have to be transferred  
16  to Coinbase, right?

17          A       Um-hum.

18                   MR. ORTIZ: Yes.

19          A       Yes.

20   BY MR. MICHAELSON:

21          Q       How would the dollars be transferred?

22          A       Well, the easiest way is if Coinbase had an  
23  account with us and the customer had an account with  
24  us, then it's just a ledger entry on our ledger;  
25  otherwise, the dollars would go to Coinbase's bank.



*Meadors Court Reporting*

1 Q How would the bitcoin flow from Coinbase to  
2 Custodia?

3 A It would flow in -- from Coinbase into the  
4 customer's wallet at Custodia, or if we had the  
5 pooled account, it would have been in that pooled  
6 wallet at Custodia.

7 Q And the bid asked would come from a third  
8 party?

9 A Solely from the third party, correct.

10 Q And then who would present that to the  
11 customer?

12 A Custodia would.

13 Q Custodia would. Without getting into the  
14 substance of any legal advice, did Custodia receive  
15 legal advice on the subject whether that would render  
16 Custodia a commodity broker under the CEA?

17 A It didn't --

18 MR. ORTIZ: That's just a yes or no  
19 question.

20 A Okay. No.

21 BY MR. MICHAELSON:

22 Q And did Custodia receive legal advice on the  
23 subject -- yes or no question. Did Custodia receive  
24 legal advice on the subject of whether this would  
25 render Custodia a commodities exchange?

*Meadors Court Reporting*

1 where you brought her on as --

2 A Advisor.

3 Q -- as an advisor?

4 A Yes.

5 Q She's paid a salary or by the hour?

6 A She's paid a salary and options.

7 Q Salary and options. Before bringing her on,  
8 did she provide you with a resume?

9 A Probably. I don't recall, actually. I  
10 assume so because we would have done a background  
11 investigation on her.

12 Q Would you have -- did you interview her --

13 A Yes.

14 Q -- before bringing her on?

15 A Yes.

16 Q And during that interview, was that in  
17 person?

18 A No.

19 Q Was it, like, via Zoom?

20 A Probably, yes.

21 Q Did you interview her once or more than  
22 once?

23 A Probably just once.

24 Q And do you recall that interview?

25 A Not specifically.

*Meadors Court Reporting*

1 Q Do you recall roughly how long it was?

2 A No.

3 Q During the interview, did you talk to her  
4 about whether the Board of Governors or reserve banks  
5 make the calls on whether to grant master accounts?

6 A During the interview, I don't recall whether  
7 I asked her that or not. Keep in mind the context.  
8 We didn't think this was going to be an issue because  
9 the Wyoming Division of Banking thought it already  
10 had an agreement, thought it had a deal with the  
11 Kansas City Fed.

12 Q So when you interviewed Katie Cox, do you  
13 recall asking her about her experience with master  
14 accounts?

15 A No, I don't specifically recall that. I  
16 don't know whether we would have asked about that.  
17 Katie spent her whole career in different parts of  
18 the fed, and the vast majority of it was at the Board  
19 of Governors dealing with membership applications and  
20 other applications in the M&A division. So I knew  
21 that was not something she had recent experience  
22 with.

23 Q And when you say, "that," you mean master  
24 accounts?

25 A Correct.

*Meadors Court Reporting*

1 Q So you knew when you brought her on that she  
2 didn't have recent experience with master accounts?

3 A Correct.

4 Q Did she represent to you prior to her  
5 retention that she did have recent experience in  
6 master accounts?

7 A She worked -- yes. I do recall her saying  
8 that she worked with de novo banks that were applying  
9 for membership because she told me about one de novo  
10 bank that got three membership exams, and so I  
11 remember talking to her from an early stage about  
12 membership, which was always on our road map. The  
13 only question was when.

14 Q Got it. So given her experience with  
15 membership, fair to say that your conversations with  
16 her in those early months were more about membership  
17 than master accounts?

18 A I don't recall.

19 Q This document, Exhibit 5 --

20 MR. ORTIZ: Can we pick a good time to have  
21 lunch if our lunch is here?

22 MR. MICHAELSON: Yeah, yeah. We can just  
23 break now.

24 (Lunch break from 12:04 p.m. to 12:54 p.m.)

25 BY MR. MICHAELSON:

*Meadors Court Reporting*

1           Q     But we already -- those ones aren't focused  
2     on digital assets, though, right?

3           A     I don't know, actually. I don't know.  
4     What's so interesting about this is I seemingly come  
5     across more banks that are doing something in digital  
6     asset once a week, it seems. There's a lot more out  
7     there than has been publicly disclosed. So I can't  
8     say that I know that we were unique among master  
9     account holders or master account applicants.

10          Q     So when the speedy legislation was passed,  
11     there was nothing else like it out there in any other  
12     state, right?

13          A     Again.

14               MR. ORTIZ: Object on foundation. If you  
15     know, go ahead.

16          A     Thank you. Again, so there are -- there are  
17     six states now that have uninsured bank charters. So  
18     it depends on what you define by "like it." That  
19     seems to be, again, the biggest issue that the fed  
20     had with the speedy charter was that it was  
21     uninsured.

22               There were applicants from four different  
23     states that is have uninsured state bank charters  
24     applying for master accounts. So are we like those?  
25     Of course we are because we're an uninsured

*Meadors Court Reporting*

1 state-chartered institution. There's about a dozen  
2 of those that have applied for fed master accounts,  
3 and like I said, there are 442 uninsured  
4 non-federally regulated holders of fed master  
5 accounts.

6 MR. ORTIZ: Hold on. Hold on. Slow down.

7 BY MR. MICHAELSON:

8 Q So is it your testimony, then, that when  
9 Custodia requested a master account in the fall of  
10 2020, it was not breaking any new ground?

11 A It was not breaking any new ground in a lot  
12 of ways because stablecoins had already been in  
13 existence. There were uninsured state bank charters  
14 in other states. There were other banks pursuing  
15 digital asset custody, if not already providing  
16 digital asset custody services. There's a lot about  
17 Custodia's proposal that was simply not new.

18 Q So in your view, it wasn't a  
19 precedent-setting request for master account?

20 A I don't have -- that requires me to  
21 speculate. I don't know for sure.

22 Q So you didn't know if it was a  
23 precedent-setting request?

24 A Yes. I didn't know.

25 Q You didn't know if Custodia was trying to

*Meadors Court Reporting*

1 accomplish something that no other institution had  
2 accomplished before?

3 A I knew there were a lot of institutions  
4 either doing or trying to do the same thing Custodia  
5 was doing or proposing to.

6 Q Help me square that with what you're telling  
7 investors at the time about how Custodia's uniquely  
8 positioned in part due to Wyoming digital asset  
9 legislation, to provide a solution to the market that  
10 was no other institution was able to provide. I'm  
11 trying to square those representations that you're  
12 doing something new with what I hear you saying now,  
13 which is Custodia's request may have been just like  
14 any others?

15 A Great question.

16 MR. ORTIZ: Hold on hold on. Let me object  
17 to the form of the question. Go ahead.

18 A Thank you. Actually, I'm so glad you asked  
19 that because Bank of New York Mellon doesn't have the  
20 benefit of Wyoming's bailment laws that clarify that  
21 you hold digital assets -- you can hold digital  
22 assets in bailment. Bank of New York Mellon uses an  
23 omnibus banking structure.

24 Remember I told you early on that they tried  
25 to create a bailment on an Article 8 securities

*Meadors Court Reporting*

1           A       Correct.

2           Q       So during that meeting, do you -- who's the  
3       lead spokesperson for Kansas City?

4           A       Esther George.

5           Q       Do you recall her -- do you recall her  
6       saying that Custodia had selected a novel charter?

7           A       I don't recall that specifically.

8           Q       Do you recall her saying that Custodia's  
9       proposed business had certain aspects that were  
10      unconventional?

11          A       She focused on us doing novel things, yes,  
12      but I don't know that she used the word,  
13      "unconventional."

14          Q       What were the novel things you recall her  
15      focusing on?

16          A       She actually didn't define us. She was very  
17      high level in that.

18          Q       But you do recall her saying that your  
19      business involved novel things?

20          A       Yes.

21          Q       You recall her saying that Custodia's  
22      request for a master account raised broad issues?

23          A       I don't recall that.

24          Q       Do you recall her saying that she was going  
25      to be reaching out to colleagues across the system?



*Meadors Court Reporting*

1           A       I don't recall that. She may have.

2           Q       Do you recall her saying that it was -- in  
3       substance, it was too soon to say one way or the  
4       other whether the master account request would be  
5       granted or denied?

6           A       Not specifically, but the impression I had  
7       from that meeting was she was very noncommittal.

8           Q       So take away from you was you were not sure  
9       you were going to get one?

10          A       Yes. At that point, we were concerned  
11       because that was inconsistent with everything the  
12       Wyoming Division of Banking had been telling us all  
13       along.

14          Q       Right. But in that meeting, you didn't say  
15       that Kansas City had already agreed to give Custodia  
16       a master account, right?

17          A       I don't recall.

18          Q       Do you recall Esther George asking in that  
19       very first meeting if a master account was necessary  
20       to Custodia's viability?

21          A       I don't recall.

22          Q       Do you recall making any representations in  
23       that very first meeting about Custodia's BSA/AML  
24       policies and procedures?

25          A       I don't recall. I doubt it because that was

*Meadors Court Reporting*

1 so early on. That was three years ago. It was so  
2 early on, and also it's worth giving this context.

3 The process in Wyoming is the charters are  
4 granted, but you cannot use them until you receive a  
5 certificate of authority to operate. So everyone  
6 understood that the certificate of authority to  
7 operate was necessary in order to operate, and  
8 between the charter grant and the certificate of  
9 authority to operate was the construction period.

10 Q We've marked this as 241.

11 (Deposition Exhibit No. 241 marked.)

12 BY MR. MICHAELSON:

13 Q This is document Bates stamped Custodia  
14 5521. This is an e-mail from you dated November  
15 12th, 2020 to a number of people, including Richard  
16 McGinty, John Pettway, Bryan Bishop, and  
17 Phillip Treick, T-R-E-I-C-K?

18 A Yes.

19 Q The subject of this is a "fed meeting  
20 update"; do you see that?

21 A Yes.

22 Q Does this e-mail concern that first meeting  
23 you had with the Reserve Bank of Kansas City?

24 A It was about that time, so probably yes.

25 Q Okay. You write, "We've had the first real

*Meadors Court Reporting*

1 curve ball thrown at us. The fed's new guidance is  
2 that our timeline for a master account will be,"  
3 quote, months, not weeks, end quote; do you see  
4 that?

5 A I do see that. It wasn't months.

6 Q So your recollection, though, is that coming  
7 out of that meeting, it was going to take time for  
8 this to be resolved, right?

9 A That's what Esther told us; months, not  
10 weeks.

11 Q And you write here in the second paragraph,  
12 your -- "Esther George indicated the master account  
13 review process is going to be slow"; do you see that?

14 A Yes.

15 Q Do you recall her saying that?

16 A I don't recall her saying that  
17 specifically.

18 Q This is -- who's this an e-mail to?

19 A To my board.

20 Q To your board. Do you strive to be truthful  
21 in your communications with the board?

22 A Yes.

23 Q You try to -- then you write, "This  
24 contrasts to the guidance Wyoming had previously  
25 received from a different staffer at the KC Fed"?

*Meadors Court Reporting*

1           Q     When you refer here to, "customer to  
2     customer transactions," are you referring to customer  
3     to customer digital asset transactions?

4           A     Yes. Those would not be very frequent most  
5     like apply where a customer would transfer to another  
6     customer because, most likely, if there's a transfer  
7     happening, it's a sale, and so that would go to an  
8     exchange, but it is conceivable there could be  
9     customer to customer transactions done over the  
10    counter that wouldn't involve us.

11                So the way this would work for a securities  
12    custodian is, for example, your 401(k) manager says,  
13    "Transfer the Apple shares to a different fund or to  
14    a different account within the 401(k)." So it is  
15    possible that there could be two account transfers,  
16    but realistically, that's not going to be a very  
17    large quantity of transactions, most likely.

18           Q     Referring to Page 18 of the presentation,  
19    Proposed Guideline No. 5, the second bullet refers to  
20    "retaining third-party Temenos," T-E-M-E-N-O-S --

21           A     Yes.

22           Q     -- "to develop and implement integration,"  
23    and you write that "Avanti will utilize its financial  
24    crime litigation module." What is the Temenos  
25    financial crime mitigation module?

*Meadors Court Reporting*

1           A       That is software that Temenos offers that is  
2 integrated with its core banking system for BSA  
3 compliance.

4           Q       And at this time, was the development of  
5 Custodia's use of Temenos's financial crime  
6 mitigation module complete and finalized and ready to  
7 go?

8           A       No.

9           Q       At this time, was Custodia's BSA and AML  
10 policies and procedures complete and finalized and  
11 ready to go?

12          A       Policies, yes; procedures, we had some. We  
13 ultimately ended up replacing the Temenos FCM  
14 software with a different provider.

15          Q       You recall when that occurred?

16          A       Early 2022, I believe.

17          Q       When the -- I see in these slides walking  
18 through the different principles that were announced  
19 by the board for public comment and the proposed  
20 account access guidelines. When it first came out,  
21 did you view those as a favorable event, the release  
22 of the principals?

23          A       Well, that's what Governor Brainard tried to  
24 portray it as to the Wyoming officials. I was  
25 concerned that this was just the fed buying time, so

*Meadors Court Reporting*

1 I didn't know what to think.

2 Q You recall what you said publicly about  
3 it?

4 A No.

5 (Deposition Exhibit No. 252 marked.)

6 BY MR. MICHAELSON:

7 Q Bates stamp Custodia Bates stamp 450.  
8 E-mail July 1, 2021, and second paragraph, you're  
9 referring to the comment period on the payment system  
10 access policy?

11 A Yes.

12 Q And then you write, "The issue becomes moot  
13 if Governor Brainard," quote, waives speedies through  
14 after the comment period closes as she apparently  
15 hinted to Senator Lummis would happen for speedies  
16 once the rules are final; do you see that?

17 A Yes, and now that I'm seeing this, I'm  
18 remembering, that was a term that she used in her  
19 conversations with Senator Lummis.

20 Q That's -- okay. Break that down for me.  
21 First of all, who are you hearing this from? Are you  
22 hearing this from Cynthia Lummis?

23 A No.

24 Q Are you hearing this from Chris Land?

25 A Yes or from Tyler Lindholm. It could have

*Meadors Court Reporting*

1 something you heard directly from Esther?

2 A Yes. She said that in that March meeting.

3 Q So the basis of this comment is whatever  
4 Esther conveyed to you in that March meeting in  
5 person?

6 A Yes.

7 Q So following that meeting with Esther, do  
8 you recall receiving a letter from the Kansas City  
9 Fed --

10 A Yes.

11 Q -- from Tara Humston?

12 A Um-hum.

13 Q Do you recall generally what that letter  
14 conveyed?

15 A Yes.

16 Q What did it generally convey?

17 A That there was no decision imminent.

18 Q And did you have a view that that was in  
19 contradiction with the message you heard directly or  
20 indirectly from Governor Brainard?

21 A Yes. Every time Senator Lummis and Governor  
22 Brainard talked, it was positive, and then we would  
23 hear these contradicting messages from other  
24 places.

25 Q Like the Federal Reserve Bank of Kansas

*Meadors Court Reporting*

1 City?

2 A Including the Federal Reserve Bank of Kansas  
3 City, but I concluded at the end of that meeting with  
4 Esther George that we were going to initiate this  
5 lawsuit, and I told her that. I believe I said, "We  
6 all know where this is going."

7 Q Mark this Exhibit 257.

8 (Deposition Exhibit No. 257 marked.)

9 BY MR. MICHAELSON:

10 Q Handing you a document marked Exhibit 257,  
11 Minutes of the Board of Directors Meeting on May 11,  
12 2022?

13 A Yep.

14 Q So Bates No. FRBKC 2881. Did there come a  
15 time when Chuck Thompson departed as a full-time  
16 employee?

17 A Yes.

18 Q Did that happen around May 2022?

19 A Sometime around then, yes.

20 Q Did he remain an employee, just not full  
21 time or was he gone?

22 A He did for a while, and he remains an  
23 advisor.

24 Q And who replaced him?

25 A We split the role. Tanya McCorquodale is



*Meadors Court Reporting*

1 the general counsel, and we hired a separate chief  
2 compliance officer. Chuck had been in both roles  
3 previously.

4 Q You told the board at this meeting according  
5 to the minutes that there's no FDIC update at this  
6 time; do you recall where things stood at the FDIC as  
7 of May of 2022?

8 A I presume if we're still talking about the  
9 FDIC that we hadn't received our feedback from the  
10 FDIC yet.

11 Q And you also say, "The company's on track  
12 with the Wyoming Division of Banking still planning  
13 to have the certificate of authority to operate by  
14 the end of June"?

15 A Yes.

16 Q "Our company cannot apply until the end of  
17 all necessary testing"?

18 A Correct.

19 Q So as of May 2022, Custodia had not  
20 completed all necessary testing in order to get a  
21 certificate of authority to operate from the State of  
22 Wyoming?

23 A Yes.

24 Q What testing remained to be done at this  
25 time?

*Meadors Court Reporting*

1 Q And you replied it was Reserve Trust, and  
2 you asked Thompson to provide an update. Do you  
3 recall learning that Reserve Trust had BSA/AML  
4 issues?

5 A Yes.

6 Q Who did you learn that from?

7 A We were interviewing some of their former  
8 employees.

9 Q Did you ask -- did you discuss with those  
10 employees why Reserve Trust lost its master  
11 account?

12 A Chuck Thompson did when he was interviewing.  
13 I didn't interview any of the employees, but we  
14 interviewed a couple of their former employees who  
15 were looking for new jobs.

16 Q So Chuck Thompson interviewed Reserve Trust  
17 employees who were looking for new jobs?

18 A Yes.

19 Q And Chuck Thompson learned from them that  
20 Reserve Trust had BSA/AML issues?

21 A Yes.

22 Q And Chuck Thompson learned from them that  
23 those BSA/AML issues resulted in losing its master  
24 account?

25 A That's what they told us. I don't know if

*Meadors Court Reporting*

1 that's true, but that's what they told him. I also  
2 recall learning that they didn't have a chief  
3 compliance officer. That was also one of the pieces  
4 of feedback. It's not here in these meeting minutes,  
5 but I was really surprised that they didn't have a  
6 chief compliance officer.

7 Q In your view can a speedy that doesn't have  
8 a chief compliance officer obtain a master account?

9 MR. ORTIZ: Let me object; lacks foundation.  
10 Go ahead.

11 A That also calls for a legal conclusion.  
12 We're about to find out.

13 BY MR. MICHAELSON:

14 Q Refer to the next page, FRBKC 2882,  
15 "Chairman Long asked Thompson to give the board a  
16 BSA/AML policy update"; do you see that? It's the  
17 last paragraph.

18 A Yes.

19 Q And you provided a high-level overview?

20 A Um-hum.

21 Q You stated, "The policy is a living document  
22 that has changed"; do you see that?

23 A Yes. All policies are living documents that  
24 have been changed.

25 Q At this time, did you have -- as of May

*Meadors Court Reporting*

1 2022, did Custodia have BSA/AML policies and  
2 procedures that were complete and final and ready to  
3 go?

4 A Policies, yes; procedures, I don't know  
5 because we'd switched over to Foundry at this point,  
6 so anytime you switch a vendor, the procedures are  
7 going to change, but the policy had been in place and  
8 had been continually updated since 2020.

9 Q Do you recall where things stood with  
10 Foundry as of May 2022?

11 A Not specifically, no.

12 Q Was their work complete as of May 2022?

13 A I doubt it, but we were heavy in the new  
14 vendor onboarding and integration around that time  
15 because we'd replaced them earlier in the year.

16 Q And the minutes reflect that "The policy  
17 will continue to change as a result of engaging Crowe  
18 to help advise regarding best practices"?

19 A Yes.

20 Q So does that refresh your memory as to  
21 whether Crowe had not yet completed its work as of  
22 May 2022?

23 A I don't know. Again, Crowe was actually --  
24 there was ongoing work. We're still working with  
25 Crowe, so there was the initial assessment, and then

*Meadors Court Reporting*

1 ongoing work. The board brought them in, I think,  
2 twice. So there were multiple interactions with  
3 Crowe, multiple reports by Crowe.

4 (Deposition Exhibit No. 258 marked.)

5 BY MR. MICHAELSON:

6 Q Exhibit 258 is document Bates stamped  
7 Custodia 8686. Do you recognize this document?

8 A I do.

9 Q What is it?

10 A A notebook.

11 Q These are your notes?

12 A Yes.

13 Q Are all of them your notes?

14 A Yes.

15 Q In other words, this doesn't contain anyone  
16 else's notes?

17 A Correct.

18 Q And I gather you provided this to your  
19 counsel in connection with this litigation?

20 A Yes.

21 Q Were all of those notes in this exhibit  
22 contained in the same notebook?

23 A Yes.

24 Q Do you know approximately -- the approximate  
25 date range of the notes contained in this notebook?

*Meadors Court Reporting*

1           A       I don't know what this is. In the context,  
2       though, this is looking at market opportunities. I'm  
3       talking "huge TAM," is total addressable market.  
4       This looks like notes to prepare for a conversation  
5       with a potential investor. So "problems" is market  
6       problems in the payments industry, which is what the  
7       opportunities were that we were trying to solve.

8           Q       Got it. The next Page 705, on the left, the  
9       notes that begin with "JBH." What is JBH in  
10      reference?

11          A       I'm sorry. Which page?

12          Q       705.

13          A       Okay.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Meadors Court Reporting**

**24 Q Want to take a break?**

25 (Break from 4:34 p.m. to 4:47 p.m.)

*Meadors Court Reporting*

1 the Kansas City Fed did not want a de novo bank to  
2 apply for membership because the hurdle that it set  
3 for us was so high.

4 And to give you an example, the entire  
5 banking industry in the State of Wyoming has roughly  
6 seven billion dollars in assets, and we as a de novo  
7 bank were measured against a \$50 billion complex bank  
8 standard.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q Custodia would not be profitable?

15 A That's normal for de novo banks.

16 Q What's your basis for saying it's normal for  
17 de novo banks?

18 A Every bank before it launches has to spend  
19 the money on the banking core, has to put the risk  
20 management systems in place, has to put the financial  
21 management systems in place.

22 It's the nature of a de novo that you have  
23 to spend money before you generate your first dollar  
24 of revenue.

[REDACTED]



*Meadors Court Reporting*

4 MR. MICHAELSON: For those listening, we  
5 just unmuted you. We've been going about 10 minutes.  
6 We're on Exhibit 258, Page 706.

7 BY MR. MICHAELSON:

8 Q So for Custodia to obtain profitability,  
9 they're going to have to roll out digital assets  
10 products and services that weren't yet built out?

11 A Correct.

12 Q If Custodia, though, were to grant you a  
13 master account -- I'm sorry. If the Reserve Bank of  
14 Kansas City were to grant a master account based  
15 solely on a review of day one products and services  
16 absent fed membership, they'd have no supervisory  
17 rights over you, correct?

18 A We volunteered to have whatever supervisory  
19 rights the fed wanted. You saw that in the May 2021  
20 slides that we presented to the board. That should  
21 not have been an obstacle at all.

22 Q But if you changed your mind, they couldn't  
23 enforce that, right?

24 A We would have contractually committed to  
25 that. That wouldn't have been a problem.

*Meadors Court Reporting*

1 Q So on the -- we're back on the record. On  
2 the same day that Custodia received notice from the  
3 Federal Reserve Bank and Kansas City that the master  
4 account was denied?

5 A Um-hum.

6 Q There was also an announcement from the  
7 White House that same day, correct?

8 A Correct.

9 Q Do you believe that the White House  
10 announcement was coordinated with the federal  
11 reserves system's announcements concerning the  
12 membership application of the master account  
13 request?

14 A Yes.

15 Q What is the basis for that belief?

16 A Our conversations with the Bloomberg  
17 reporters.

18 Q What do the Bloomberg reporters tell you  
19 about coordination between the White House and  
20 federal reserve?

21 A As I mentioned at the beginning of this, the  
22 Bloomberg reporters started calling us on Wednesday,  
23 the 25th. They had clearly been leaked by somebody  
24 who had to have been inside the fed that we had been  
25 asked to withdraw our application, and if we didn't,

*Meadors Court Reporting*

1 we would be voted down on Friday.

2 The Bloomberg reporters were hounding us.  
3 By that I mean, voicemail after voicemail, and having  
4 worked with Bloomberg for 20 years, I understand why.  
5 They needed a second confirmation. So they got  
6 tipped off by somebody, and they needed a second  
7 confirmation. They can't publish without second  
8 confirmations; that's their policy.

9 They ultimately, when we did talk to them,  
10 admit that. They were looking for second  
11 confirmation. They couldn't publish until -- they  
12 needed second confirmation, but I already expected  
13 that.

14 Our PR agent had five or six conversations  
15 with Bloomberg's reporters over that two-day -- it  
16 was around 48 hours. They started calling Wednesday  
17 afternoon, the 25th, and then, of course, the  
18 announcement of the denial was Friday morning, the  
19 27th.

20 So it was three days, but around 48 hours in  
21 total, and the Bloomberg reporter, when she finally  
22 got a hold of our PR agent, he asked her, "Who at the  
23 fed is leaking this?"

24 And she said, "Well, it wasn't necessarily  
25 the fed."

*Meadors Court Reporting*

1           And so he said, "Oh, that must mean the  
2   White House," and she laughed, and in all of their  
3   prior subsequent conversations, when she called him,  
4   he started with, "What are our friends at the White  
5   House saying?" And she never denied it was the White  
6   House.

7           When I talked to Katanga Johnson -- it's  
8   K-A-T-A-N-G-A, Johnson on Friday morning, we had a  
9   very similar conversation because he knew that we had  
10   sent the letter to Mark Van Der Weide the night  
11   before, and Allie Versprille was recounting sentences  
12   from our letter to the fed. So she had it within  
13   hours of us sending it to the fed, and when  
14   Katanga Johnson called me, I said, "I need to know  
15   who at the fed is leaking this because what they're  
16   doing is illegal, and it's clearly designed to  
17   intimidate us into withdrawing our application and  
18   dropping this lawsuit."

19           And he said, "Who says it was coming  
20   directly from the fed?" And I said, "Oh, that must  
21   mean it was the White House, right?"

22           And by this conversation on Friday morning,  
23   we already knew that we had been voted down, and the  
24   White House had released its statement simultaneously  
25   with the Board of Governors releasing its statement.

*Meadors Court Reporting*

1     There were three things released simultaneously.

2             And when I asked Katanga, "So it's the White  
3     House?" He said, "Hmmm." So the Bloomberg reporters  
4     never formally confirmed, it but they indirectly  
5     confirmed it and never denied it when we repeatedly  
6     said, "So this is coming from the White House?"

7             And that is the basis upon which we  
8     concluded that, indeed, it was the White House. I do  
9     not know who at the fed leaked. They got the leak of  
10    the board votes, as well. I don't know who at the  
11    fed was leaking. It was clearly somebody at the fed.  
12    Were they leaking directly to Bloomberg or were they  
13    leaking to the White House and the White House was  
14    leaking to Bloomberg, I do not know.

15            Q     So you're saying the reporters didn't  
16    confirm that the White House was the source?

17            A     Correct.

18            Q     They suggested it was?

19            A     It was clear.

20            Q     And it's your testimony that the Bloomberg  
21    reporters were suggesting that it was the White House  
22    leaking information about Custodia's membership  
23    application, correct?

24            A     Somebody clearly got three different leaks  
25    from the fed to Bloomberg. Was it directly from

*Meadors Court Reporting*

1 someone at the fed or was someone at the fed feeding  
2 it to the White House, who was then leaking it to  
3 Bloomberg, I don't know, but there were clearly three  
4 separate leaks of Custodia confidential supervisory  
5 information to Bloomberg either directly or  
6 indirectly.

7 Q As you said, Bloomberg typically required  
8 two sources. So if they were getting a leak from the  
9 fed and a leak from the White House, they could run  
10 with it, right?

11 MR. ORTIZ: Object on foundation. Go  
12 ahead.

13 A I don't know.

14 BY MR. MICHAELSON:

15 Q I guess I'm confused because you were  
16 saying, "Who's your source at the fed?" And they  
17 were suggesting it wasn't at the fed; it was at the  
18 White House; that's your testimony?

19 A Yes.

20 Q So they weren't suggesting that there was a  
21 leak from the fed?

22 A They weren't saying that, either. They  
23 weren't disclosing the source. They just hinted that  
24 it was the White House, and that was the joke  
25 everytime they called Nate trying to get us to

*Meadors Court Reporting*

1 confirm it. If they couldn't publish the story.  
2 Clearly, it had been leaked. Clearly, the nature  
3 of -- and by the way, the Wall Street Journal got the  
4 leak, as well -- the nature of it and the timing of  
5 it was designed to pressure us, and I don't know  
6 whether it was the fed and the White House or the  
7 White House alone, but somebody was leaking from the  
8 fed. That was clear by definition.

9 Q Didn't you say the reporters denied that?

10 A Somebody -- somebody got the information  
11 outside of the federal reserve. There was  
12 confidential Custodia information going outside the  
13 federal reserve. I just don't know whether it was  
14 directly to Bloomberg or to the White House.

15 Q In your experience or -- do you have  
16 experience talking with reporters?

17 A Yes.

18 Q Extensive?

19 A Yes.

20 Q In your experience, are reporters always  
21 straight with potential sources about who their  
22 existing sources are?

23 A When they have material information that was  
24 not public in any other way, it was clear they were  
25 getting leaks from the feds.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

CUSTODIA BANK, INC., )

Plaintiff, )

v. )

Civil Number: 22-cv-00125-SWS )

FEDERAL RESERVE BOARD OF )

GOVERNORS and FEDERAL RESERVE )

BANK OF KANSAS CITY, )

Defendants. )

---

**ERRATA SHEET FOR THE TRANSCRIPT OF THE DEPOSITION OF  
CAITLIN LONG**

---

I, Caitlin Long, have read the transcript of my deposition taken on November 29, 2023 in the above captioned matter and make the following corrections:

| <b>Page</b> | <b>Line</b> | <b>Current Transcript</b>          | <b>Change</b>                            | <b>Reason</b>       |
|-------------|-------------|------------------------------------|--|---------------------|
| 7           | 3           | comments                           | complaints                               | Transcription error |
| 9           | 12          | feds                               | Fed                                      | Transcription error |
| 16          | 13          | had in the been                    | had not been                             | Transcription error |
| 17          | 20          | their                              | our                                      | Transcription error |
| 17          | 25          | offered                            | offering                                 | Transcription error |
| 19          | 2           | press at custodiabank.com          | press@custodiabank.com                   | Transcription error |
| 20          | 24          | longevity insurance company        | Longevity Insurance Company              | Transcription error |
| 23          | 18          | Morgan Life Insurance subsidiaries | Morgan Stanley life insurance subsidiary | Transcription error |
| 27          | 1           | helping                            | happening                                | Transcription error |
| 27          | 17          | propriety                          | proprietary                              | Transcription error |



| Page | Line | Current Transcript | Change   | Reason              |
|------|------|--------------------|----------|---------------------|
| 29   | 11   | speedy             | SPDI     | Transcription error |
| 29   | 15   | speedy             | SPDI     | Transcription error |
| 29   | 16   | speedy             | SPDI     | Transcription error |
| 29   | 24   | speedy             | SPDI     | Transcription error |
| 29   | 25   | speedy             | SPDI     | Transcription error |
| 30   | 9    | speedy             | SPDI     | Transcription error |
| 30   | 11   | speedy             | SPDI     | Transcription error |
| 30   | 13   | speedy             | SPDI     | Transcription error |
| 30   | 15   | speedy             | SPDI     | Transcription error |
| 30   | 20   | speedy             | SPDI     | Transcription error |
| 30   | 21   | speedy             | SPDI     | Transcription error |
| 31   | 6    | speedy             | SPDI     | Transcription error |
| 31   | 9    | speedy             | SPDI     | Transcription error |
| 31   | 10   | speedy             | SPDI     | Transcription error |
| 32   | 3    | speedy             | SPDI     | Transcription error |
| 32   | 19   | speedy             | SPDI     | Transcription error |
| 35   | 15   | documents          | accounts | Transcription error |
| 37   | 7    | speedy             | SPDI     | Transcription error |
| 37   | 9    | speedy             | SPDI     | Transcription error |
| 37   | 16   | speedy             | SPDI     | Transcription error |
| 39   | 3    | speedy             | SPDI     | Transcription error |
| 39   | 8    | speedy             | SPDI     | Transcription error |

| Page | Line | Current Transcript | Change                  | Reason              |
|------|------|--------------------|-------------------------|---------------------|
| 39   | 17   | speedy             | SPDI                    | Transcription error |
| 40   | 16   | speedy             | SPDI                    | Transcription error |
| 41   | 3    | speedies           | SPDIs                   | Transcription error |
| 50   | 3    | speedies           | SPDIs                   | Transcription error |
| 50   | 6    | speedy             | SPDI                    | Transcription error |
| 50   | 15   | speedies           | SPDIs                   | Transcription error |
| 52   | 4    | criteria           | criterion               | Transcription error |
| 54   | 11   | additional         | a few                   | Transcription error |
| 58   | 17   | Avid               | Avit                    | Transcription error |
| 59   | 13   | Clarisa            | Perissa                 | Transcription error |
| 59   | 16   | Clarisa            | Perissa                 | Transcription error |
| 60   | 20   | Clarisa            | Perissa                 | Transcription error |
| 73   | 17   | create a           | reduce                  | Transcription error |
| 76   | 19   | hierarchial        | hierarchical            | Transcription error |
| 76   | 20   | hierarchial        | hierarchical            | Transcription error |
| 84   | 10   | principle          | principal               | Transcription error |
| 86   | 2    | providing          | proposing               | Transcription error |
| 86   | 7    | Padilla            | Kudiya                  | Transcription error |
| 86   | 8    | New York Mellon    | Bank of New York Mellon | Transcription error |
| 87   | 7    | Padilla            | Kudiya                  | Transcription error |
| 89   | 22   | principle          | principal               | Transcription error |
| 98   | 23   | speedy             | SPDI                    | Transcription error |

| Page | Line | Current Transcript    | Change              | Reason              |
|------|------|-----------------------|---------------------|---------------------|
| 101  | 20   | eretheum              | Ethereum            | Transcription error |
| 102  | 19   | elicit                | illicit             | Transcription error |
| 121  | 22   | occasioning           | occasions           | Transcription error |
| 121  | 22   | meant                 | met                 | Transcription error |
| 123  | 23   | speedy                | SPDI                | Transcription error |
| 124  | 6    | speedy                | SPDI                | Transcription error |
| 124  | 17   | Kansas City           | Kansas City Fed     | Transcription error |
| 124  | 18   | speedy                | SPDI                | Transcription error |
| 125  | 2    | heat back             | feedback            | Transcription error |
| 128  | 14   | speedies              | SPDIs               | Transcription error |
| 129  | 3    | speedies              | SPDIs               | Transcription error |
| 130  | 2    | speedies              | SPDIs               | Transcription error |
| 136  | 21   | speedy                | SPDI                | Transcription error |
| 136  | 25   | speedy                | SPDI                | Transcription error |
| 137  | 1    | speedy                | SPDI                | Transcription error |
| 138  | 20   | speedy                | SPDI                | Transcription error |
| 148  | 19   | speedy                | SPDI                | Transcription error |
| 150  | 9    | accurate              | inaccurate          | Transcription error |
| 151  | 19   | Clearly called        | Cleary call         | Transcription error |
| 154  | 8    | the documents this we | the documents we    | Transcription error |
| 159  | 14   | treasury at Ford      | treasury IT at Ford | Transcription error |

| Page | Line   | Current Transcript  | Change  | Reason   |
|------|--------|---|---|--|
| 161  | 9 – 13 | Q . . . She agreed there were no show -- I asked Tara Humston specifically. I explained, “We are going to be raising capital. Are there any show stoppers?” She said, “Yes, there are no show stoppers.” She specifically said, “There are no show stoppers.” | A . . . She agreed there were no show -- I asked Tara Humston specifically. I explained, “We are going to be raising capital. Are there any show stoppers?” She said, “Yes, there are no show stoppers.” She specifically said, “There are no show stoppers.” | Transcription error where the speaker was misidentified. Lines 9–13 are the response to the question at lines 5–8. |
| 168  | 13     | speedy  | SPDI  | Transcription error  |
| 168  | 14     | speedy  | SPDI  | Transcription error  |
| 168  | 20     | speedy  | SPDI  | Transcription error  |
| 169  | 4      | speedy  | SPDI  | Transcription error  |
| 169  | 5      | speedy  | SPDI  | Transcription error  |
| 170  | 9      | about   | to  | Transcription error  |
| 172  | 8      | speedies  | SPDIs   | Transcription error  |
| 172  | 9      | speedy  | SPDI  | Transcription error  |
| 176  | 22     | form  | formed  | Transcription error  |
| 178  | 7      | feds  | Fed   | Transcription error  |
| 179  | 13     | at OMO  | open kimono   | Transcription error  |
| 181  | 13     | CDs   | SPDIs   | Transcription error  |
| 185  | 10     | speedy  | SPDI  | Transcription error  |
| 191  | 10     | speedy  | SPDI  | Transcription error  |
| 191  | 21–22  | OC, one   | OC1   | Transcription error  |
| 192  | 16     | OC One  | OC1   | Transcription error  |
| 194  | 9      | knew  | new   | Transcription error  |

| Page | Line | Current Transcript  | Change  | Reason              |
|------|------|---|---|---------------------|
| 195  | 7    | speedy  | SPDI  | Transcription error |
| 196  | 3    | not anyone  | not chartered anyone  | Transcription error |
| 196  | 6    | speedies  | SPDIs   | Transcription error |
| 199  | 2    | speedies  | SPDIs   | Transcription error |
| 200  | 14   | speedies's  | SPDIs'  | Transcription error |
| 200  | 18   | principals  | principles  | Transcription error |
| 202  | 11   | The   | She   | Transcription error |
| 207  | 4    | FCS   | FTX   | Transcription error |
| 209  | 25   | appointee   | appointees  | Transcription error |
| 220  | 2-3  | apply to the Monetary Control Act at all. The applies to applicants that apply after August | comply with the Monetary Control Act at all, and they apply to applicants that apply after August | Transcription error |
| 221  | 14   | principals  | principles  | Transcription error |
| 224  | 20   | speedy  | SPDI  | Transcription error |
| 225  | 10   | two   | to  | Transcription error |
| 231  | 15   | speedies  | SPDIs   | Transcription error |
| 232  | 13   | speedies  | SPDIs   | Transcription error |
| 232  | 14   | speedies  | SPDIs   | Transcription error |
| 240  | 23   | speedy  | SPDI  | Transcription error |
| 258  | 3    | speedies  | SPDIs   | Transcription error |
| 258  | 8    | speedy  | SPDI  | Transcription error |
| 263  | 4    | speedy  | SPDI  | Transcription error |
| 274  | 15   | Bloomberg   | Gruenberg   | Transcription error |

| Page | Line | Current Transcript                          | Change                                | Reason              |
|------|------|---|---------------------------------------|---------------------|
| 282  | 13   | single lay                                  | single A                              | Transcription error |
| 282  | 14   | network                                     | networks                              | Transcription error |
| 285  | 18   | only on products                            | only on launch products               | Transcription error |
| 286  | 21   | billed out                                  | built out                             | Transcription error |
| 287  | 19   | 2016  | SR 2016                               | Transcription error |
| 304  | 21   | Tire  | Tier                                  | Transcription error |
| 311  | 6    | divisions                                   | decisions                             | Transcription error |
| 313  | 19   | Tire  | Tier                                  | Transcription error |
| 315  | 8    | close                                       | do so                                 | Transcription error |
| 321  | 2–3  | all of their prior subsequent conversations | all of their subsequent conversations | Transcription error |
| 324  | 25   | feds  | Fed                                   | Transcription error |
| 326  | 6    | move to move                                | move to moot                          | Transcription error |
| 327  | 15   | No  | Yes                                   | Transcription error |
| 328  | 16   | Padilla                                     | Kudiya                                | Transcription error |
| 331  | 14   | Clain                                       | Klain                                 | Transcription error |
| 332  | 9    | email. The Bloomberg email put it           | emails. The Bloomberg emails put it   | Transcription error |

Dated: January 5, 2024

/s/ Caitlin Long

Caitlin Long